

## DESCRIPTION OF PROPOSED REGULATORY ACTION NOTICE OF RELOCATION OF GAMBLING ESTABLISHMENT

CGCC-GCA-2011-    -R

### INTRODUCTION:

These proposed regulations establish a process by which a gambling enterprise shall notify the California Gambling Control Commission (Commission) of a physical relocation of a gambling establishment. The regulations also make technical, clarifying changes to existing regulations regarding changes of address or other contact information.

### PROPOSED ACTION:

#### Subsection (a)

Minor changes have been made in Section 12004, subsection (a) to clarify that *any* change of contact information should be reported to the Commission within 10 days of such change on the Commission's form CGCC-032, revised as part of this rulemaking package.

#### Subsection (b)

This proposal adds subsection (b) to Section 12004 to provide for notification to the Commission of a physical relocation of a gambling establishment. This proposed regulation is intended to streamline the process by which an owner-licensee can relocate a gambling establishment, while still providing some oversight by the Commission.

Under the Gambling Control Act(Act),<sup>1</sup> some authority to regulate the location of gambling establishments is placed with the local governing jurisdiction, as evidenced by the following:

- Business and Professions Code<sup>2</sup> section 19800(*l*) states that “the location of lawful gambling premises ... [is a] proper subject for regulation by local government bodies.”
- Section 19860(a) requires the Commission to deny a license with respect to any gambling establishment that is located in a local jurisdiction that does not have an ordinance governing, among other things, the location of gambling establishments.

The Act also provides some authority for the Commission to consider the location of gambling establishments:

- Section 19842 authorizes the Commission to “take actions deemed to be reasonable to ensure that gambling activities take place only in suitable locations.”
- Section 19800(*l*) states that “consideration of [the location of lawful gambling premises] by a state regulatory agency ... is warranted when local governmental regulation respecting those subjects is inadequate or the regulation fails to safeguard the legitimate interests of residents in other governmental jurisdictions.”

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<sup>1</sup> Business and Professions Code sections 19800, et seq.

<sup>2</sup> All further statutory references are to the Business and Professions Code, unless otherwise specified

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- Section 19841(p) allows the Commission to promulgate regulations to “define and limit the area” of controlled games if it determines that “local regulation of these subjects is insufficient to protect the health, safety, or welfare of residents in geographical areas proximate to a gambling establishment.”
- Section 19862 allows the Commission to deny a license for a new gambling establishment, or the expansion of the existing establishment, if the proposed location is next to an unsuitable location (e.g., a school, place of worship, playground, hospital, or convalescence facility) in a neighboring jurisdiction.

This proposed regulation establishes a streamlined process by which a gambling enterprise must receive approval for a new location from the local governing jurisdiction and then notify the Commission of that relocation. If the proposed relocation is not within one mile of the boundary line of the jurisdiction, the following documentation must be submitted to the Commission:

- A copy of the licensee’s fully executed rental or lease agreement for the new location, or evidence of the licensee’s ownership of the new location. Section 19853(a)(2) allows the Commission to require any person who “owns an interest in the premises of a licensed gambling establishment or in real property used by a licensed gambling establishment” to be licensed. The Commission needs a copy of the rental or lease agreement in order to determine if the landlord or owner of the property should be licensed. This requirement is in keeping with current Commission practice.
- A copy of the licensee’s fire safety and evacuation plan. Title 4, CCR, Section 12370 requires a licensee to submit a fire safety and evacuation plan to the Commission. If the gambling establishment’s location has changed, a new plan needs to be submitted that conforms to the new facility.
- A copy of the licensee’s security and surveillance plan. Title 4, CCR, Section 12372 requires a licensee to submit a security and surveillance plan to the Commission. If the gambling establishment’s location has changed, a new plan needs to be submitted that conforms to the new facility.
- Documentary evidence of all required approvals, licenses, and permits by any applicable local, state, or federal agency. This will provide the Commission the assurance that licensees have received all required licenses and permits, including, but not limited to business licenses, occupancy permits, liquor licenses, and check cashing permits. This will also serve to confirm that the local jurisdiction has approved the location as suitable.

For cases in which the proposed relocation is within one mile of the boundary line of the jurisdiction, the owner-licensee would be additionally required to obtain documentation from the neighboring jurisdiction certifying that the new location is not next to any of the unsuitable locations specified in section 19862. If the required documentation cannot be obtained, the proposed relocation would then have to be scheduled to be heard before the Commission in a properly noticed, public meeting. The Commission would be able to hear and consider all of the evidence, including the concerns of the neighboring jurisdiction, and make a decision as to whether or not to allow the gambling establishment to move to the specific proposed location.

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Alternatively, if the neighboring jurisdiction does not provide the required documentation, the owner-licensee can choose a different location (with the approval of the governing jurisdiction) to site the relocated gambling establishment.

Furthermore, the proposed action specifies that if an owner-licensee fails to obtain all required approvals prior to conducting gambling operations in a new location, or fails to notify the Commission of a relocation, the owner-licensee may be subject to disciplinary action under Chapter 10 of Title 4 of the California Code of Regulations.

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